IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7953 of 2000
WITH
SPECIAL CIVIL APPLICATION No 4267 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

G S R T CORPN

Versus

DASHRAHBHAI M BHOI

Appearance:

In S.C.A. No. 7953/2000 :
MR UI VYAS for Petitioner
MR YATIN SONI for Respondent No. 1

In S.C.A. No. 4267/2000 :
MR YATIN SONI for Petitioner
MR UI VYAS for Respondents

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 03/10/2000

ORAL COMMON JUDGEMENT

Rule in Special Civil Application No. 4267 of 2000. Service of rule waived by Mr. U.I. Vyas, Ld. Counsel for the Respondent - Corporation.

2. Both the petitions are arising from the same award of the Labour Court, Himatnagar in Reference (LCH) No. 177 of 1997. The petitioner in Special Civil Application No. 4267 of 2000 is the Conductor, who has prayed for the relief of immediate reinstatement in terms of the award of the Labour Court. The another petition being Special Civil Application No. 7953/2000 is filed by the employer Corporation praying for setting aside the impugned award whereby the workman is ordered to be reinstated without back wages and with further punishment of stoppage of two increments.

3. The Labour Court has, in the impugned award, appreciated the evidence on record and found that the misconduct of being under intoxication while on duty was established. However, in view of the fact that the workman had volunteered to suffer the punishment of loss of entire back wages and in exercise of its powers under Section 11-A of the Industrial Disputes Act the impugned order of reinstatement is passed.

4. The Ld. Counsel for the employer Corporation vehemently argued that looking to the past record and the misconduct alleged against the workman an order imposing more severe punishment ought to have been made. The Ld. Counsel for the workman defended the award and contended that the workman stood to loose the back wages of about 5 years. However, it was fairly conceded that the further punishment of stoppage of increments may be increased to stoppage of three increments instead of two increments with permanent effect to meet the ends of justice.

5. Accordingly without interfering with or substituting the discretion exercised by the Labour Court and on the basis of the concession made by the Ld. Counsel for the workman, both the petitions are partly allowed and the impugned order is modified to the extent that the workman shall not be entitled to any back wages till the date of his reinstatement and shall suffer the further punishment of stoppage of three increments instead of two increments with permanent effect. The order so modified shall be implemented by the employer Corporation within four weeks from today. Rule in both the petitions made absolute accordingly with no order as

to costs.

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PVR.